

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY MAY 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1116

Introduced by Assembly Member Hall

February 22, 2013

An act to amend Section 25600.5 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as amended, Hall. Alcoholic beverages: licensees.

Existing provisions of the Alcoholic Beverage Control Act generally prohibit manufacturers, winegrowers, bottlers, importers, wholesalers, and others from performing certain activities, with specified exceptions. Existing law, until January 1, 2014, permits specified licensees, or any authorized agent of those persons to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to a limited number of consumers over 21 years of age at an invitation-only event, held on specified premises, in connection with the sale or distribution of wine or distilled spirits, as provided. Existing law authorizes the Department of Alcoholic Beverage Control to impose a fee of up to \$200 on licensees conducting events pursuant to the above-described authorization, as provided.

This bill would authorize the holding of these events on the premises of a ~~licensed~~ hotel, as defined, *would include in the authorization out-of-state distilled spirits shipper's certificate holders*, would expand the number of consumers that may attend these events, would revise

the conditions under which the event may be held, would establish the fee at \$200, would revise requirements for providing the department with information regarding these events, and would extend the repeal date for these provisions until January 1, 2018.

The Alcoholic Beverage Control Act provides that a violation of specified provisions of the act is punishable as a misdemeanor. This bill, by expanding the definition of an existing crime, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25600.5 of the Business and Professions
- 2 Code is amended to read:
- 3 25600.5. Notwithstanding any other provision of this division,
- 4 a manufacturer of distilled spirits, distilled spirits manufacturer's
- 5 agent, *out-of-state distilled spirits shipper's certificate holder*,
- 6 winegrower, rectifier, or distiller, or its authorized unlicensed
- 7 agent, may provide, free of charge, entertainment, food, and
- 8 distilled spirits, wine, or nonalcoholic beverages to consumers at
- 9 an invitation-only event in connection with the sale or distribution
- 10 of wine or distilled spirits, subject to the following conditions:
- 11 (a) No licensee, other than those specified in this section, may
- 12 conduct or participate in any portion of an event authorized by this
- 13 section. A licensee authorized to conduct an event pursuant to this
- 14 section shall not be precluded from doing so on the basis of holding
- 15 any other type of alcoholic beverage license.
- 16 (b) An event authorized by this section shall be conducted on
- 17 either the:
- 18 (1) Premises for which a caterer's authorization has been issued,
- 19 except that any event held on the premises of a licensed winegrower
- 20 shall not be authorized to provide any distilled spirits other than
- 21 brandy.

1 (2) Premises of a licensed hotel, ~~except that any event held on~~
2 ~~the premises of the licensed hotel be held in an area that is not~~
3 ~~open to the general public.~~ *hotel holding an on-sale beer and wine*
4 *or on-sale general license, except an event shall not be conducted*
5 *in the lobby area of a hotel or in any portion of a hotel that is*
6 *identified, promoted, or otherwise designated by the hotel as a*
7 *club, nightclub, or other similar entertainment venue.* For purposes
8 of this paragraph, “hotel” means any hotel, motel, resort, bed and
9 breakfast inn, or other similar transient lodging establishment, but
10 it does not include any residential hotel as defined in Section 50519
11 of the Health and Safety Code.

12 (c) *A hotel where the event authorized by this section is being*
13 *conducted shall maintain, during all times while exercising its*
14 *license privileges, other areas within the licensed premises that*
15 *shall be made readily available to the public not attending the*
16 *authorized event.*

17 ~~(e)~~

18 (d) Except as provided in paragraph (2) of subdivision (b), an
19 event authorized by this section shall not be conducted on premises
20 for which a permanent retail license has been issued.

21 ~~(d)~~

22 (e) Except for fair market value payments authorized pursuant
23 to this section, a retail licensee, including the licensed caterer or
24 the licensed hotel, shall not receive, nor shall the licensee
25 conducting the event give, any other item of value or benefit in
26 connection with events authorized by this section.

27 ~~(e)~~

28 (f) The person authorized by this section to provide, free of
29 charge, entertainment, food, and beverages shall be present during
30 the event.

31 ~~(f)~~

32 (g) The person authorized by this section to provide, free of
33 charge, entertainment, food, and beverages shall have sole
34 responsibility for providing payment for the entertainment, food,
35 beverages, and rental fees at the event. Payments for entertainment,
36 food, beverages, and rental fees shall not exceed fair market value.
37 No other licensed person shall be authorized, under this section,
38 to provide any portion of these payments.

39 ~~(g)~~

1 (h) Requests for attendance at the event shall be by invitation
2 sent to consumers over 21 years of age at a specific address via
3 mail or email, by telephone, or presented in person. Invitations or
4 other advertisements of the event shall not be disseminated by any
5 other means. Invitations shall not be sent by the authorized person
6 or their authorized unlicensed agent inviting all of the employees
7 of a retail licensee or a chain of retail licensees under common
8 ownership to an authorized event.

9 ~~(h)~~

10 (i) Attendance at the event shall be limited to consumers who
11 receive and accept an invitation to the event. Invited consumers
12 may each invite one guest. All attendees shall be over 21 years of
13 age. The total number of consumers and their guests allowed at
14 any event authorized by this section shall not exceed 600 people.
15 Admittance to the event shall be controlled by a list containing the
16 names of consumers who accepted the invitation and their guests.
17 The persons identified in this section shall be responsible for
18 compliance.

19 ~~(i)~~

20 (j) No premium, gift, free goods, or other thing of value may
21 be given away in connection with the event, except as authorized
22 by this division.

23 ~~(j)~~

24 (k) The duration of any event authorized by this section shall
25 not exceed four hours.

26 ~~(k)~~

27 (l) (1) Subject to paragraph (3), a person authorized to conduct
28 events pursuant to this section shall not conduct more than 12
29 events in a calendar year where the consumers and guests in
30 attendance exceed 100 people, and not more than 24 events in a
31 calendar year where the consumers and guests in attendance is 100
32 people or fewer.

33 (2) The limitation on events authorized by this section shall be
34 by person, whether that person holds a single license or multiple
35 licenses. If a person holds multiple licenses, the limitation shall
36 be applied to the person holding the license, not by type of license.

37 (3) A licensee authorized to conduct events pursuant to this
38 section shall not conduct more than two events in a calendar year
39 on the premises of any single licensed hotel or other licensed hotel
40 under the same or common ownership.

1 (4) The licensee conducting the event shall not advertise any
2 retail licensee. If the event is held on the premises of a retail
3 licensee as permitted by this section, the licensee conducting the
4 event may list the retailer's name and address in the invitation and
5 any related advertising for the sole purpose of identifying the
6 location of the event. The listing of the retailer's name and address
7 shall be the only reference to the retail licensee and shall be
8 relatively inconspicuous in relation to the invitation or
9 advertisement as a whole. Pictures or illustrations of the retailer's
10 premises, or laudatory references to the retailer, shall not be
11 permitted.

12 (5) (A) Other than as specifically authorized by this section,
13 alcoholic beverage promotions of any sort shall not be conducted
14 by any licensee in conjunction with an event held on the premises
15 of a retail licensee pursuant to this section. This restriction includes
16 any discounted drink specials offered by the retail licensee to
17 consumers.

18 (B) For purposes of this paragraph, "in conjunction with" means
19 during an event and any period within 24 hours before and 24
20 hours following an event.

21 (6) A retail licensee shall conspicuously offer for sale alcoholic
22 beverages other than the products produced, distributed, bottled,
23 or otherwise offered for sale by the licensee conducting the event.

24 ~~(t)~~
25 (m) At least 30 days prior to an event, the licensee, or its
26 authorized unlicensed agent, authorized to conduct the event shall
27 apply to the department for a permit authorizing the event. In
28 addition to any other information required by the department, the
29 licensee shall provide the department all of the following
30 information:

- 31 (1) The name of the company authorized to conduct the event.
32 (2) The number of people planned to be in attendance.
33 (3) The start and end times for the event.
34 (4) The location of the event.
35 (5) The name of the caterer, if required, obtaining the caterer's
36 authorization for the event.

37 ~~(m)~~
38 (n) All alcoholic beverages provided pursuant to this section
39 shall be purchased from the holder of the caterer's permit or the
40 licensed hotel, as applicable.

1 ~~(n)~~

2 (o) All alcoholic beverages served at an event authorized by
3 this section shall be served in accordance with Sections 25631 and
4 25632.

5 ~~(o)~~

6 (p) No person authorized to conduct an event pursuant to this
7 section shall hold such an event at the same location more than
8 eight times in a calendar year.

9 ~~(p)~~

10 (q) The person authorized to conduct an event under this section
11 may provide attendees at the event with a free ride home. The free
12 rides shall only constitute free ground transportation to attendees'
13 homes or to hotels or motels where attendees are staying.

14 ~~(q)~~

15 (r) In addition to the prescribed fee imposed upon a licensed
16 caterer to conduct an event authorized by this section, a fee of two
17 hundred dollars (\$200) shall be collected by the department from
18 the licensee, or its authorized unlicensed agent, authorized by this
19 section to provide, free of charge, entertainment, and beverages
20 at an authorized event.

21 ~~(r)~~

22 (s) All licensees involved in events held pursuant to this section
23 shall be responsible for compliance with this section, and with all
24 other provisions of this division in connection with these events,
25 and each may be subject to discipline for violation of this division.

26 ~~(s)~~

27 (t) The Legislature finds and declares both of the following:

28 (1) That it is necessary and proper to require a separation
29 between manufacturing interests, wholesale interests, and retail
30 interests in the production and distribution of alcoholic beverages
31 in order to prevent suppliers from dominating local markets through
32 vertical integration and to prevent excessive sales of alcoholic
33 beverages produced by overly aggressive marketing techniques.

34 (2) Any exception established by the Legislature to the general
35 prohibition against tied interests must be limited to the express
36 terms of the exception so as to not undermine the general
37 prohibitions.

38 ~~(t)~~

1 (u) This section shall remain in effect only until January 1, 2018,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2018, deletes or extends that date.

4 SEC. 2. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.